

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6131 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?

4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge? : NO

NARSINHBHAI PITAMBARDAS MISTRY SINCE DECEASED THROUGH

Versus

DELUX AUTO INDUSTRIES

Appearance:

MR DM THAKKAR for Petitioners

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/10/1999

ORAL JUDGEMENT

#. The petitioner, since deceased, by this writ petition under Article 227 of the Constitution of India, challenges the award of the Labour Court, Rajkot dated 10.10.86 made in Reference (LCR) No.509/81, under which, the respondent was ordered to pay to the petitioner-workman, since deceased, compensation of Rs.9,500/= in lieu of reinstatement and backwages.

#. The learned counsel for the petitioner contended that it is a clear case where the services of the late petitioner-workman were terminated by respondent in violation of Section 25-F and 25-G of the Industrial Disputes Act, 1947 and the Labour Court should have passed the award of reinstatement with full backwages. It has next been contended that in the facts of this case, the award passed only for compensation in lieu of reinstatement and backwages is wholly perverse. Lastly it is contended that it was not taken to be a case of abandonment of services of the late workman and as a result thereof, consequential award should have been of reinstatement in service with full backwages.

#. Nobody is present on behalf of respondent to contest the special civil application.

#. I do not find from the award of the Labour Court where it has accepted it to be a case of termination of services of late workman in violation of Section 25-F of the Industrial Disputes Act, 1947. So far as the argument of the learned counsel for the petitioner regarding termination of services of the workman in violation of Section 25-G of the Industrial Disputes Act, 1947, is concerned, this case is also not accepted by the Labour Court. It is a case where the Labour Court has considered it to be a case where the petitioner, since deceased, has not abandoned the services. The Labour Court found as a fact that the petitioner-workman had joined the services of Rajlakshmi Metal Brass Pvt. Ltd. It is also held by the Labour Court that the petitioner-workman since deceased, is not willing to reinstatement on his original post in the company. Evidence has also come on the record that the respondent-employer was willing to reinstate the workman. In these facts, the Labour Court has not committed any illegality to award compensation in lieu of reinstatement and backwages. In these facts, it was not a fit case where reinstatement of the petitioner should have been ordered with backwages. His last pay was Rs.425/= p.m. So he suffered a loss of about Rs.5,100/= towards salary as against which the Labour Court has awarded Rs.9,500/= as compensation in lieu of reinstatement and backwages. Rs.751/= have also been awarded as costs of the case. The Labour Court has awarded reasonable amount of compensation in this case. There is no error apparent on the face of the award of the Labour Court, nor the award, in the facts of the case, can be said to be perverse which calls for interference of this Court under Article 226 of the Constitution of India.

#. In the result, this special civil application fails
and the same is dismissed. Rule discharged. No order as
to costs.

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[sunil]